

Application No. 10/688,404
Amdt. Dated April 1, 2005
Reply to Office Action of February 28, 2005

Remarks/Arguments

This is in response to a final rejection. It is respectfully submitted that the claims as presented herein place the application in form for allowance or better form for appeal, and it is requested that this amendment be entered and a Notice of Allowance be issued. The application now comprises claims 1-8. Claims 1 and 5 have been amended to more clearly set forth that the capacitor is in the circuit. As stated in the Specification, paragraph [0036] as amended by the amendment submitted December 28, 2004, the device covered by the claims includes a capacitor in the trigger circuit (i.e., capacitively coupled). The battery that charges the capacitor is electrically isolated from the output source by the capacitor. Claim 9 has been canceled as the subject matter thereof is now included in claim 5.

Claims 1-5 and 7-9 were rejected under 35 USC §102(b) as anticipated by Lewandowski (US Patent 5,771,925) in that Lewandowski discloses a rotatable activator switch 24 capacitively coupled to a sound output device whereby moving the switch activates the sound output for a fixed, predetermined period of time. Further, the examiner contends that the axis about which the switch pivots is a "central longitudinal axis" of both the switch and the container. It is respectfully submitted that the Lewandowski reference has been misconstrued and can not be read to show applicants device. While the reference shows three capacitors, they are not capacitively coupled to the output device. Instead the Lewandowski capacitors are connected to ground and are therefore outside the triggered circuit. While operation of the Lewandowski device is difficult to understand because numerous features thereof are not labeled on the drawings (i.e., switch 29, three terminals 1, 2, 3, ICL 32, ICL2 33) it appears that once activated by pivoting the handle 24 through a small angle the switch is closed, directly connecting the battery to various electrical components of the system including devices to provide the various timed sound sequences. If not later interrupted by the switch being caused to open, the battery remains connected to the trigger circuit and continues to be drained of its power. The Lewandowski capacitors are outside the trigger circuit and their manner of functioning in the delivery of the audio output is not clear, but it is clear that they are not capacitively connected to the output device or the trigger circuit and do not isolate the output device from the battery as claimed by applicant and shown in applicants Fig. 6 and 7.

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In regard to claim 5, it is clear that Lewandowski does not have a "common longitudinal axis" or an "upper portion containing a product to be dispensed" and a lower portion having a rotatably mounted activator, with both portions oriented around the common central longitudinal axis. The pivot point in Lewandowski is clearly not centrally located, it is oriented horizontally in a front portion of the device and while the moveable handle 24 pivots through a small angle about that pivot point, the product is above the pivot point, not around the common axis. Claim 5 has been amended to clarify that applicants' activator is provided in a manner that it rotates completely around that longitudinal central axis and does not merely oscillate back and forth below a pivot point as shown in Lewandowski. The multiple distinctions between the Lewandowski reference and applicants' claimed invention in both functioning of the electrical circuit and the mechanical construction and manner of operation thereof are so clear, there can be no finding of anticipation. The only similarity is that both devices dispense a product and release a sound for a period of time. However, they do so in an entirely different manner and the end result is entirely different.

Claims 1-9 were rejected under 35 USC §103(a) as being obvious based on Chiu (US Patent 5,174,440) in light of Lewandowski (US Patent 5,771,925) in that Chiu discloses a rotatable dispenser device which delivers both a product and a sound output activated by dispensing the product. However, the Chiu reference does not disclose a capacitor that stops the sound at a predetermined period of time. Lewandowski provides a dispenser with a capacitor in the circuit which causes the sound to stop. The examiner's basic understanding of applicants' device is incorrect. Applicants' capacitively connected circuit does not cause the sound to stop. Applicants' circuit causes the sound to be "activated for a fixed, predetermined period of time". There is a patentable distinction between a circuit which activates an output and allows that output to continue for a preset, fixed period of time, that period of time being controlled by the limited amount of energy provided by the capacitor in the circuit (applicants invention) and a device which has a switch which connects an output directly to a battery (the power source) and relies on a circuit, which includes capacitors connected directly to ground (not capacitively connected to the output device) to shut off the output by disconnecting the battery from the output device, as is shown by Lewandowski.

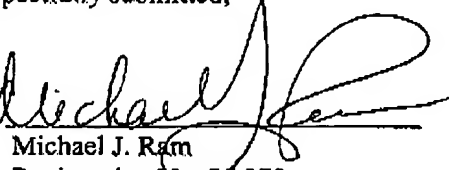
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Claims 1-8 remain in the application. It is respectfully submitted that these claims are patentable, fully supported by the Specification and not shown by the prior art. It is requested that this amendment be entered, the claims be found to be patentable and a Notice of Allowance be issued.

Respectfully submitted,

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Eleanor Nakada